

How Posner "Found" That the Commission Was Right After All

What made me think that there was so<sup>m</sup>ething familiar about what Posner presented as his own work with all that modern superscience did come to mind when some time after its September 5, 1993 publication date I was <sup>Case Closed</sup> sent a copy of the lead book review in the San Francisco Chronicle. It was by Patricia Holt, the Chronicle's book editor and it did not go into p negyrics of praise. At the end of her ~~length~~ <sup>JFK administration</sup> and perceptive review she quotes Posner as quoting William Manchester, father of the "Camelot" non-dense as saying "t here is no evidence whatever that there was one," referring to a conspiracy. ~~She~~ Her concluding paragraph is ,

"You can't say that by Posner's account, <sup>sh</sup>rely. In fact, the only reason "Case Closed" ~~works~~ works as a title is that ~~read~~ readers may be so sick of JFK assassination books they couldn't possibly stomach another one."

This, however, is not what triggered my recollection.

<sup>1</sup> In her "Between the Lines" column on the ~~see~~ <sup>sc</sup> second page she says what she did not say in her review. It is not lengthy and i t deserves quotation in full:

# Assassination Enigma Endures

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That was quite an ad from Random House in a recent issue of the New York Times for Gerald Posner's "Case Closed" (see review on cover). Above mug shots and selected quotations (Jim Garrison: "The JFK assassination was a homosexual thrill-killing") by five authors and a film maker (Oliver Stone), the headline announced, "GUILTY / Of Misleading the American Public." The ad smacks of playing dirty and sounds a little lame. If Posner's book should be judged on its own merits, why stoop to the "Most-Wanted" poster approach?

Of course, using selective information to prove one's case is common practice among JFK assassination authors. But Posner wants to distance himself from all others; he wants his book to be regarded as so fair and complete that after reading it, we'll all say, OK, that's the end of it — "case closed."

But take the case of Failure Analysis Associates, the Menlo Park firm that used computer enhancements to reconstruct the JFK assassination for a 1992 study. Posner refers to that study repeatedly but does not explain that Failure Analysis was commissioned by the American Bar Association to create its reconstruction for the ABA's mock trial of Lee Harvey Oswald in San Francisco last year. The trial ended with a hung jury.

According to Angela Meyer of Failure Analysis, "Our job for the ABA was to provide evidence and expert witnesses for both the defense and the prosecution." Posner appears to draw from testimony for the prosecution's case, not the defense's case.

Although Failure Analysis was not asked to provide its own opinion of Oswald's guilt or innocence, the company's CEO, Roger McCarthy (who testified for the defense at the mock trial), offered what host Brian Banmiller called "a startling conclusion" during the TV program "On the Money" on July 31.

Failure Analysis, announced Banmiller, "made a compelling argument that Lee Harvey Oswald did not act alone." According to McCarthy, the gunman

"gave up some awfully good shots to take some awfully bad shots" to "(drive) the quarry into a second shooting" by other assassins.

Banmiller then remarked, "Few sharpshooters, much less Oswald, could hit a moving target taking shots as rapidly as Oswald supposedly did." He asked McCarthy, "Can it be done?" McCarthy responded, "I can't. I'm the best shot I know. I can't do that."

Banmiller concluded, "Thirty years later, no one, not even Failure Analysis, is ready to say conclusively who killed President Kennedy." Case open.

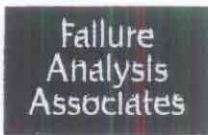
Then I remember the fat file I have on that ABA mock trial, but not one of those many news accounts mentions Failure Analysis. <sup>400 + here</sup> So, with McCarthy's name I wrote him on September 17. When I received no answer I wrote him again, telling him that I would ~~have~~ much prefer not to but if I did not hear from him I would have to report that when I asked him for whatever information he could provide he did not respond. Then, ~~two days~~ after she wrote it, I did get an informative letter from Dr. Angela Meyer, Failure Analysis' Manager of Client Services and a participant in the work done for the

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I probaly forgot all about that ABA mock trial of Oswald because at that time  
I was working <sup>concentratedly</sup> intensely on NEVE. AGAIN!

American Bar Association. Because her letter is neutral, really impartial and much calmer than under the same circumstances I would have written I wrote immediately and asked for her permission to ~~sa~~ use it. Except for the last paragraph, in which she wishes me well with this book and ~~xxxx~~ looks for to reading it, her letter, in full, and unchanged follows:

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Failure Analysis Associates, Inc.  
Engineering and Scientific Services  
149 Commonwealth Drive, P.O. Box 3015  
Menlo Park, California 94025  
(415) 326-9400 Telex 704216 Fax (415) 326-8072

October 7, 1993

**Re: Your Request for Information**

Mr. Harold Weisberg  
7627 Old Receiver Rd.  
Frederick, MD 21702

Dear Mr. Weisberg:

Thank you very much for your letters dated September 17th and September 29th. As we received both letters within the last two days, any delay in our response has been a function of the Post Office.

I am familiar with your work having read your books last year during our trial preparation for the American Bar Association (ABA) Section of Litigation's Mock Trial, "U.S. vs. Oswald". In fact, your work resides in our in-house library. With your permission, I would like to spend the next portion of this letter describing to you the background of our work for the ABA Mock Trial so that you are more familiar with why we created these animations and why they are being utilized so much now, in the 30th anniversary year of the JFK assassination.

**Background to the Investigation**

Failure Analysis Associates, Inc. (FaAA) is the nation's leading consulting firm dedicated to the investigation, analysis, and prevention of failures of an engineering or scientific nature. Our work is well-known throughout the litigation field and we pride ourselves in utilizing the most state-of-the-art techniques in engineering analysis and demonstrative evidence preparation. This is why we were contacted by the ABA.

In March, 1992, members of the Litigation Section of the ABA approached FaAA to assist with a Mock Trial Presentation for their 1992 Annual Meeting in San Francisco later that year. The ABA asked FaAA to provide expert witness testimony for both sides of the litigation - a first for our organization. We were also asked to provide all demonstrative evidence (courtboards, video, graphics, and computer animation) After much discussion, the decision was made to put Lee Harvey Oswald on "trial" at the event. Please be advised that this was a Mock Trial designed to educate attorneys on proper trial techniques as well as the use of technology to display demonstrative evidence. This trial was not used as a forum to prove or disprove that Oswald killed President Kennedy.

*red face*

### **Trial Preparation**

It was determined that the Prosecution would consider the following issues: The Magic or Tumbling Bullet Theory, Injury Analysis, and Path Trajectory of the Bullets. The Defense team, of which I was a member, concerned itself with Ballistics, Other Potential Firing Positions/Assassins, as well as "shooting holes" in the Prosecution's case. Both sides utilized the following background information: Warren Commission Report, House Select Committee Report, "**Crossfire**" as well as a copy of the Zapruder Film. In addition, either side could acquire additional materials if necessary, if approved by the other side. That is how we acquired your books. Latimer's medical work was also used extensively and we had many discussions with Larry Howard in Dallas as well.

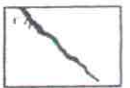
### **The Prosecution**

The work that the Prosecution team presented you have seen in Posner's book. The lead member of the team was Dr. Robert Piziali, a V.P. and Manager of our Biomechanics Group. Injury analysis was performed using information provided in the record as well as photographs that have appeared in numerous books and articles. The Zapruder film was enhanced and each frame captured as a still to analyze the movements of the vehicle's occupants. During this analysis, the Prosecution was able to detect movement in the lapel flap on Governor Connelly's jacket which prompted them to associate this with the timing of the first/second shot. Frame by frame analysis was also used to determine timing sequences for the firings of the three bullets.

FaAA obtained aerial photographs of Dealey Plaza as well as photographs of each building in the Plaza to assist in the creation of the computer animation of the area. The data was precise, most likely within an accuracy of approximately two inches. Using this information, the potential entry point of the President's head wound, photogrammetric positioning of the Governor and the President as well as reverse projection techniques, the Prosecution located the positions of the two men in the vehicle and then related the injury positions in the bodies. In this way, the trajectory of the bullet, i.e., the cone that you see in Posner's book, could be estimated. As you can see, there is not a straight line trajectory, but a cone, to incorporate the  $\pm$  accuracy of the analysis. As the cone happens to take in all of the 6th floor window, the prosecution used this to build a strong case.

### **The Defense**

We were able to obtain a Mannlicher Carcano rifle and bullets from the same lot that Oswald was alleged to have fired. We concentrated on his ability as a marksman to make that shot; the quality of the weapon utilized, the "better shot" available as the vehicle moved toward the 6th floor on Houston Street; and the timing sequence of shots.



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To do this analysis, we instrumented the weapon in all directions so that we could monitor the gunman's head movement as well as the rifle movement when the shots were taken. Dr. McCarthy, our CEO and an expert shot, performed the experiments as well as provided testimony during the trial. We were able to produce timing sequences that corresponded to the sequences found by the House Select Committee investigation as well as the Warren Report. In addition, we obtained skulls and attempted to reproduce the "pristine bullet". In one or two instances, a slightly damaged bullet was obtained, in others, it was heavily damaged. Dr. McCarthy also looked at using other weapons, as well as other ammunition, which might have been used to make the shots. We also located positions on the grassy knoll where witnesses alleged to have located the sounds of gunfire. In this way, we developed a "killing zone" - i.e. the first shot was taken from the 6th floor, then the vehicle moves into the "killing zone" location and the other gunmen have better shots. Remember, all we needed to do was put "doubt" in the jury's mind with regard to the facts of the case. The Prosecution had the burden of proof.

### **The Trial**

We produced all demonstrative evidence for the trial - graphics of the scene, aerial photographs of Dealey Plaza, video of our tests, and three-dimensional animations of the Tumbling Bullet, Fly-Around of Dealey Plaza, Timing Sequence of Shots, Killing Zones, etc. The enclosed tape has a review of the trial. We hope that, as you requested, the tape will be housed in the Hood College library so that students may look at it and gain understanding on how technology can be utilized in the courtrooms of today (and the future).

The trial lasted 16 hours (2 days). It was attended by well over 500 people. We had a real jury, picked from San Francisco residents. The jury, and a shadow jury, were monitored real-time for their responses by jury consulting experts from DecisionQuest. These juries were not able to see their reactions, but the audience was. The trial was presided over by some of the most senior judges in the country, including two Federal Court Judges. Other participants besides Dr. Piziali and Dr. McCarthy were Dr. Cyril Wecht and Dr. Martin Fackler. In addition, actors and members of the FaAA staff acted as witnesses. The trial resulted in a 7/5 split by the jury. 7 to convict and 5 to acquit. I have enclosed a copy of the program from the event for your review of the participants.

### **After the Mock Trial**

We were very pleased with the success of the Mock Trial and the materials that we produced. At present, a continuing legal education (CLE) video tape is being produced by our organization for the ABA and its members. Everyone here has their own view of whether or not Oswald was responsible for the death of the President, but FaAA takes no



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Mr. Harold Weisberg  
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position on this matter. It is my understanding that Mr. Posner contacted Dr. Piziali after he saw the COURT TV show. I am not aware of what was discussed, but Mr. Posner apparently thought the prosecution's case was worth discussing and informed Dr. Piziali of such. Thus, Dr. Piziali gave approval for him to utilize their work for his investigation. We were unaware of Mr. Posner's investigation results until we saw the **US News and World Report** article last month (enclosed for your review). I have read the chapter in "Case Closed" which acknowledges the work of Dr. Piziali and his team. It is, however, a bit confusing as to the understanding that the work was done for the ABA and not Mr. Posner.

Since FaAA has not proved, or disproved anything with regard to the person (or persons) behind the assassination, we have therefore decided to make no public statements with regard to Mr. Posner's book. We leave it up to researchers, like yourself, to analyze all the facts, and myths, and draw conclusions that the rest of us can learn from.

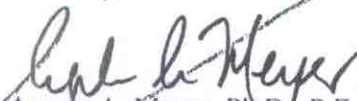
We have received many inquiries from the national media and have been fortunate to have much of our work shown on the national networks because of Mr. Posner's reference to FaAA. If there is confusion on the part of the media when they request information from us, we correct their confusion with regard to who we performed the work for.

I hope you found this information useful and I wish you much success with your manuscript. When it is published, please let me know so that I can obtain a copy. With regard to your colleague who's request was apparently ignored, I can only tell you that I am answering each inquiry personally. Our work product is confidential and not normally distributed to the general public. It is highly unlikely that we would have deliberately ignored his request. Please have him contact me directly to discuss his request.

If you have any questions, please feel free to contact me directly at 415-688-6951.

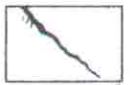
Thank you again for your inquiry

Sincerely,

  
Angela A. Meyer, Ph.D., P.E.  
Manager of Client Services

enclosure: JFK Materials

cc: Dr. Roger McCarthy (w/o attachments)



What I am addressing, the question I raise here and throughout, is not whether within the law and its various interpretations and court decision ~~what~~ what Posner did is literally, legally theft. That is a matter for court decision that does not appear to be in prospect. Although he is careful not to say so or even indicate it in his book, according to Meyer Posner did ~~"Dr. Piziali"~~ get "approval for him to utilize their work for his investigation" from Piziali." This in itself is ambiguous and confusing. While it does indicate that Posner got "approval" it seems that all he sought was some form of permission to make some kind of use of what the prosecution only presented to and for the ABA. As Posner both used and misused the prosecution only presentation, there is no indication at all that he sought or was given permission to take Failure Analysis's work and present it as his own or as done for him. As Meyer wrote me, ~~it~~ is "a bit confusing as to understanding that the work was done for the ABA and not Mr. Posner."

We return to this.

However, there is no doubt at all that in his book Posner represents this work as his and as done for him. He also did that quite literally after the book was published, as we have seen.  
~~It is in this sense, not as a matter of law of guilt, of course, that it includes some of the proof that~~

Lawyers address guilt in terms of having the means, motive and opportunity. In that sense there is no real question of Posner's <sup>he did it</sup> guilt; but we do not here address whether or not he is, as a matter of law, guilty of a crime prohibited by any law. Here and throughout this is addressed within his own publisher's definition of plagiarism, that is a literary theft, not what the law says is a criminal offense. In this sense I believe there is no question about it, Posner is a thief. He did ~~not~~ "appropriate" ~~his~~ and he did "represent" as his <sup>may</sup> "original work" the "language," the "ideas" and the "thoughts" of "another author," done for an entirely different purpose and ~~for a different~~ ~~time~~ ~~different~~ not for him as his own "original work."

And, as we have seen, this is not the only time he did this in his book.

This presentation, while referred to as a "mock trial," was not that at all. It was much too limited to be referred to properly as a "mock trial." All that ADA asked Failure Analysis to do was "to provide all demonstrative evidence (courtboards, video, graphics, and computer animation)" using "the most state-of-the-art techniques" to "educate attorneys", and Meyer emphasized "educate" in her letter, in which there was a definite limitation on what would be addressed and it definitely was not "a forum to prove or disprove that Oswald killed President Kennedy."

The definite limitation was to the three and only the three of the many elements of fact in the crime itself, as Meyer also <sup>stated</sup> ~~stated~~. One was to the missed shot, one to "Path Trajectory of Bullets" and the third was to "Injury Analysis."

Thus it was not the need of the "defense" presentation for the purpose of educating lawyers about the new technology to make any use of it at all and it did not. The very limited presentation of the "defense" also was stated by Meyer, <sup>who was part of that team,</sup> "all we needed to do was put 'doubt' in the jury's mind."

In this Posner, deliberately, <sup>suppressed from his</sup> ~~he suppressed for his~~ use of the Failure Analysis presentation for and to the bar associations of the fact that the preparation was for <sup>for</sup> ~~the~~ that purpose <sup>only</sup> ~~and~~ with <sup>these</sup> ~~these~~ great limitations built into it <sup>He also suppressed</sup> ~~and~~ that there was a defense against ~~it~~ and that there was a "jury" decision in which the work he uses as the only work, as definitive and beyond question, and <sup>his</sup> ~~his~~ or done for him was evaluated, judged. When judged, as Posner's readers, naturally, have no way of knowing, it was found wanting. It failed! This is the exact opposite of what Posner says. When the "defense" against what Posner used was limited to only raising "doubt" in the "jury's" mind, even with that great limitation on disputing what Posner <sup>mis</sup> ~~uses~~ as without ~~any~~ <sup>any</sup> dispute even possible, five of the ~~twelve~~ <sup>twelve</sup> jurors agreed with the "defense." And that with ~~all~~ all the razzle-dazzle of all that gee whiz! use of the most modern computer technology.

What she does not say is apparent: Posner did not ask Failure Analyses' permission to use its work that it ~~did~~ <sup>did</sup> for the bar association, which commissioned and paid for it, ~~in e~~ <sup>as his own work or as done for him.</sup>

I refer back to a single sentence in her letter: "It is <sup>however,</sup> a bit confusing confusing as to the understanding that the work was done for the ABA and not for Mr. ~~Posner~~." <sup>Posner.</sup>

"Confusing," I believe, is the very least that can be said about it.

She also is probably following a Failure Analysis policy decision to make no public complaint about what Posner did in taking their work not for him and presenting it as done for him and thus his.

From Posner's own publisher's unabridged dictionary this seems to be within its own definition of plagiarism. 406A

What is remarkable, especially because of the great ~~att~~ <sup>att</sup> 1992 attention to that mock trial throughout most of the major media is that with the ~~single~~ <sup>single</sup> exception of perceptive Patricia Holt's column I know of not a single major-media comment on or reporting of Posner's taking Failure Analysis' work for the ABA and presenting it as done for him, his. Holt fell short of full reporting and comment. She said only that "Posner ~~is~~ <sup>is</sup> referred to that study repeatedly but does not explain that Failure Analysis was commissioned by the American Bar Association" to do that work. She does not say that Posner presents it as done for him, as his. 406B

So, and this is a further measure of Posner, in addition to presenting as his what Failure Analysis did for the bar association, he is as deliberately and dishonestly ~~too~~ <sup>to</sup> deceptive and dishonest as he can be in ~~pretending~~ <sup>pretending</sup> that the sole study was for ~~to~~ <sup>to</sup> prove Oswald guilty. ~~Both sides were presented using the same science and methods.~~ <sup>and that it did.</sup> And far from ~~proving~~ <sup>W</sup> ~~Oswald~~ <sup>Oswald</sup> guilty, Posner's false pretense, the jury hung and would not convict after getting the full treatment ~~Posner takes as his only part of.~~

All those papers and magazines that went ape for Posner and his book, all those ecstatic reviewers and their laudatory reviews, all the electronic media virtually falling all over ~~themselves~~ <sup>itself</sup> to air him and sell his fraudulent book - not a ~~peep~~ <sup>word about any</sup> of this truth ~~was~~ <sup>through</sup> which I've heard after, as Meyer says, they heard from so many of "the national media."

about our major media-

This, too, speaks for itself shamelessly and shamefully.

Robert Kennedy misquoted Dante appropriately for this total abdication by the ~~total~~ major media. It was something like this: "In time of moral crisis a special corner of hell is preserved for those who preserve their tranquility." Or, are silent when they should not be silent.

Of all I have seen, heard or been told about, of all the copies of what the major media said and did when <sup>it</sup> made itself the ~~off~~ propagandists for the monumental fraud perpetrated on us and on the world, this Orwellian rewriting of so crucial an event in our history <sup>that had</sup> with such terrible consequences, this most effective and most ~~xxxx~~ successful of all the efforts to protect the official miscreants, to hide what truth can ~~be hidden~~ continue to be hidden from the people so they cannot understand what did and did not happen when their President was ~~he~~ assassinated, only Patricia Holt had any question at all. The record of the rest is that of a Sieg Heil! major media.

Still again, as at the time of the assassination, throughout the official investigations, when the Warren Report was issued and throughout all the subsequent controversies, when records that had been suppressed were forced to light and in all the many court proceedings when the official "solution" was proven to be false, it failed to meet its responsibilities in a society like ours - in any society that is supposed to be free and <sup>w</sup>ants to continue to be ~~very~~ free.

~~wrote~~ bitterly

(page 237)

As I ~~said~~ in the epilogue to my second book, Whitewash II, in the late summer of 1966, reporting on the past and not realizing that I was ~~also~~ forecasting the future, if the assassinated President had been "boll-weevil," or "a pig in interstate commerce," or "but a piece of <sup>cotton</sup>iran, a ~~cotton~~ fabric or an imitation germanium" the government would have mobilized all its great power and the major media would have asked all the necessary questions if there were anything questionable at all.

As it does with a crooked petty flunky.

<sup>can</sup> it possibly be that ~~same~~ for Holt not a single reporter, reviewer or editor did not recognize that Posner had <sup>misused as his</sup> ~~cribbled from~~ that so very well reported ABA educational "mock" trial of Oswald? That not one thought of pushing the right button to ~~reverse~~

*to report this truth*

retrieve by the marvelous modern retrieval systems all ~~may~~ have a word about that while praising Posner and his book to the heavens?

What massive reporting there was to be retrieved, too. The small proportion of these printouts given to me are more than a compressed half-inch in my file.

*entirely*  
All ~~ignored~~ by all the major media and by all the innumerable but great number of reporters, editors and reviewers, save by Holt, when they made an international ~~pen-~~ sation of the most deliberately dishonest book I can remember, when they made themselves into an adjunct of Big Brother.

There is also the question of when Posner learned about it and what that then meant and to his book.  
to him, ~~Here is but a minute sample of what was published at the time~~

As noted earlier in this book, Posner's work on the book that emerged began, from what the book itself says, about a *year and a half* before it appeared. But in his subsequent appearances Posner said that he was looking the filed over with a book in mind some time ~~earlier~~, perhaps, from his representations a year or a year and a half before that.

~~Here is but the tiniest sample of what the major media could have retrieved about that mock trial and Failure Analysis and the minutest fragment of what Posner could and should have learned about before that mock trial if he had really been doing what can legitimately be called "research." *These are a small but representative sample of* ~~mixing~~ from that limited retrieval for me relating to that 1992 event:~~

It goes without saying, of course, that all of the major media that reported this ABA/Failure Analysis event, not only the small percentage of that reporting retrieved for me or the smaller sampling of it that follows, knew it and had at the least to wonder before abandoning all responsibilities in conceiving to extol this monumental fraud, the ~~persec~~ on pinnacle of dishonesty of a book.

As he told the Chicago Tribune's Paul Galloway ~~xxxxxx~~ in the interview that was published October 3, to begin with "Posner's intention was to write a primer of sorts about the assassination after examining the wealth of conspiracy theories to see <sup>was</sup> what ~~credible~~ and what wasn't."

While this does not ~~seem~~ <sup>appear</sup> to be the kind of book Posner would find worthwhile or ~~and encourage it to invest the time and money involved in this major effort~~ that would in any way excite Random House, it certainly is not the book that appeared.

Earlier, in his Jack Sirica interview published by Newsday on September 16 Posner ~~was~~ <sup>my</sup> began "thinking that Oswald might have been part of a conspiracy involving organized crime or even a small group of friends." Sirica then quotes Posner as telling him, "I believed, anyway, that Oswald had done the shooting." <sup>to me that,</sup>

He could not have been any more specific in representing the purpose of his book to be nothing at all like this. He could not have been any more specific in telling me, and this was in February, 1992, over that three-day period, that he was doing a book to expose the commercialism and exploitation of the assassination.

Thus, from Posner himself, we have three different books as the one upon which he was working. That Posner is a liar is not the point I am making and <sup>that</sup> it is a fact that at this point in this book needs no repetition. <sup>amplification.</sup> The real point is <sup>why</sup> does he lie about something as simple as the kind of book he is writing? Why to two different ~~review~~ interviewers after the book it out and why to one from whom he seeks help for the book he has not yet written? ~~At the very least~~ This is quite abnormal. The one thing <sup>anything</sup> that is certain, if ~~anything~~ <sup>certain</sup> ever is from what Posner says, <sup>is</sup> that without question he ~~did not begin with~~ was not working on the book that finally emerged. In the absence of what neither he nor Random House is now likely to reveal, <sup>no</sup> the book that was contracted, there is <sup>no</sup> way of ~~know~~ knowing.

However, Posner himself, made it clear that the book he produced is not the book that he contacted to <sup>do</sup> ~~do~~.

About three weeks after being closer to truth with Sirica for Newsday Posner <sup>G</sup> changed his approach with Galloway for the Chicago Tribune. That very big ego is that small man <sup>intended book</sup> had him not even indicate to Galloway that what emerged was not his (at all and that ~~was~~

the book as it appeared resulted from his own investigation and research. The quotation that follows continues, with nothing omitted, as is quoted from Galloway above on Posner's original intention, to evaluate "the welter of conspiracy theories":

#### **Poking in the garbage**

"When you read all the conspiracy books, it's apparent they can't all be right because they flatly contradict each other," he said. "I knew there was garbage on the record. I didn't know how much."

After he debunked as many inaccuracies and false leads as he could, he assumed there would be some issues that would require further investigation, perhaps questions about acoustics or ballistics or possible Mafia involvement.

Yet toward the end of his research, Posner notified Bob Loomis, his editor at Random House, that he had taken an unexpected turn.

"I was convinced the Warren Commission had gotten it right. The evidence was overwhelming," he said.

Posner also was aware, of course, that a large majority of the populace thinks the Warren Commission had gotten it wrong, maybe on purpose.

He got a feel for such skepticism when Loomis, vice president and executive editor of Random House, took his own poll at the next meeting of the publishing house's top editors, who periodically gather to report on works in progress.

"Bob told them about what I'd found, and asked how many believed the Warren Commission was right," Posner said. "Remem-

ber, these are some of the brightest, best-informed, best-educated people in New York City, and no one raised a hand except Bob Loomis."

Posner was not dismayed. "When people cite polls showing 70 or 80 or even 90 percent of the public as believing the assassination was the result of a conspiracy, I say I'm surprised it's not 100 percent when you consider that people have essentially heard only one side for three decades."

Anyone who knows anything at all about publishing, particularly on the subject of the JFK assassination, knows that it simply is not possible that Random House would have considered publishing a <sup>Nothing</sup> book in which all the money it had contracted and advanced would be one in which the author said, "I was convinced the Warren Commission had gotten it right." There had to have been some special twist, ~~something~~ <sup>this</sup> more than mere repetition of the official mythology. Posner does indicate that he told "Loomis" and that Loomis repeated it to others at Random House: "Bob then told them ~~what~~ about what I'd found." If ~~Loomis~~ <sup>Loomis</sup> had told others where he worked merely that Posner had "found" that the Warren Report <sup>"got it right"</sup> was correct they'd have laughed in his face. Newsday's

What Posner "found" and where he found it is <sup>his</sup> aberrational half-truth to Sirica of three weeks earlier:

Surely, the conspiracists argue, the seven entrance and exit wounds that the bullet allegedly produced had to be evidence of more than one shooter. To some reviewers, Posner's account of the path of the bullet is among the most persuasive material in "Case Closed." In examining the bullet's trajectory, Posner leaned on modern technology that was unavailable to the commission. Although his personal research already was leading him to conclude that the bullet did indeed pass through both Kennedy and Connally, he became a true believer after stumbling across the work of Failure Analysis Associates, a Menlo Park, Calif., engineering firm that specializes in computer recreations of accidents for use in negligence cases. The firm had done computer imaging of the Kennedy assassination for a Court TV mock trial of Lee Harvey Oswald last year. After seeing the show, Posner contacted the company, which allowed him to use its computer modeling in the book.

In the next sentence the "company" referred to is Failure Analysis. <sup>AS</sup> Meyer wrote me, Posner did not ask the "company" to allow him to use its work. He asked Piziali. And as was reported publicly, Piziali was not even an employee of Failure Analysis. He worked for "Spectus Technologies Inc., a subsidiary of The Failure ~~Analysis~~ <sup>as</sup> Group," in a copyrighted ~~in~~ "PR Newswire" account of July 24, prior to the ~~its~~ presentation to the ABA convention. <sup>says</sup>

Posner says he "stumbled" <sup>only</sup> in the Failure Analysis work <sup>in</sup> and its telecasting on Court TV. If that is how he blundered into it then it is to wonder what he was really investigating and researching with all the major national attention <sup>of</sup> to the fact that the ABA convention would include a <sup>my</sup> "mock trial" of Lee Harvey Oswald did not get his ~~the~~ attention in any way.

Meyer's letter does confirm that it was ~~was~~ after Posner "saw the TV COURT show" of the ~~press~~ "mock trial" at the ABA convention that he <sup>told</sup> ~~asked~~ Piziali that his "prosecution case was worth discussing."

It is apparent that what Posner excited Loomis with is what ~~he~~ <sup>his</sup> he could misrepresent (as the truth yielded by modern technology. The lawyer in Posner, clear on

the dishonesty he intended that is basic to his formula, got Piziali's verbal agreement to use Failure Analysis work <sup>for</sup> in what Meyer refers to as "discussion," in his book.

Whatever that verbal agreement was, and <sup>Posner</sup> the lawyer knew that Failure Analysis would not want to litigate when there was any kind of agreement, ~~Posner~~ Posner not only presented the Failure Analysis work as his <sup>own</sup> work, he was careful not to include in his book that he had permission to use it. If he had to have permission to use it, obviously he could not have represented that it as his, done for him.

Posner's end notes do not ever refer to ~~his~~ any personal contact with Piziali. (Pages 554-5) They hold a single reference to ~~his~~ Piziali's appearance at the mock trial and nothing else at all.

Keeping it verbal, seeing to it that he did not have what lawyers <sup>and would</sup> ordinarily prefer to have, written approval, is consistent with the fraud that Posner perpetrated as his <sup>intention</sup> ~~intention~~ all along.

The catalogue of Posner's <sup>synthesized</sup> dishonesties, all carefully plotted, <sup>still</sup> is not complete. If ~~it~~ it can ever be complete.

In his six hundred pages he had no space to refer to any mock trial at any ABA convention. <sup>So</sup> his readers were not only given the false impression that Failure Analysis' ~~work~~ <sup>its text gives no</sup> work was for him, ~~they overestimated~~ <sup>it gives no</sup> reason even to suspect that it could have been for any other purpose. <sup>or for anyone else.</sup>

Thus, too, the added Posner dishonesty in not reporting that there was any defense against what he selected to use of what Failure Analysis presented at that "trial" and <sup>and to corrupt history's record</sup> ~~this~~ he was able to deceive his readers/ ~~on~~ both the import of what he used, how ~~credible~~ credible it was found to be when tested before a jury, as well as on the fact that it was and was intended to be only extremely limited in application and above all, not as even addressing Oswald's guilt or innocence by Failure Analysis. ~~Atop~~ <sup>Atop</sup> all these and other related dishonesties Posner, naturally, with ~~his~~ the basic dishonesty of his approach and of his misuses of the Failure Analysis work, had no reason to include, after all, he had only six hundred pages, the fact that it all failed in the terms ~~in~~ in which he misuses it.

It did not convince the jury, <sup>as</sup> the Journal of the bar association headlined ~~in~~ its account, "Jury Deadlocks in Oswald Mock <sup>"</sup>trial."

Posner knew this at the outset because he had his first knowledge of ~~any~~ of this not from his own research or investigation because as he indicated to Sirica ~~and~~ <sup>as</sup> Meyer told me, <sup>he</sup> ~~Posner~~ <sup>telecast</sup> saw "the COURT TV show." <sup>funny's</sup> It reported the entire proceeding and it repeated that airing a number of times. The <sup>decision</sup> ~~(decision)~~ was also reported ~~at~~ nationwide by the media. <sup>these</sup> ~~And all the accounts~~ highlight Posner's ~~one~~ calculated dishonesty, a dishonesty that appears to be the only means by which he could get Loomis and ~~the~~ Random House to accept his ~~reiteration~~ <sup>reiteration</sup> of the contract for that book. What follows is typical of the reporting Posner does not use in his book and <sup>pretends</sup> ~~pretends~~ does not exist, <sup>knowing</sup> ~~knowing~~ better, <sup>knowing</sup> ~~knowing~~ the truth. <sup>along</sup> ~~And this should be considered~~ <sup>stated</sup> with the <sup>intention</sup> ~~intention~~, of the very limited and carefully defined purpose of the entire thing, as Meyer reported it officially for Failure analysis.

~~As~~ in its "final edition" of August 12, 1992, the day after the mock trial USA  
~~TODAY~~ ~~reported~~ headlined its account, "Hung jury in Oswald trial." The third sentence in  
~~this~~ the account is that "the results were inconclusive: The Jury deadlocked after 2 1/2 hours:  
 seven jurors voting ~~to~~ guilty, five to acquit."

This is not Posner's account so effectively distributed and promoted throughout  
 the entire world. *by Random House. He says only the exact opposite.*

The ~~five~~ "balked because: "The Theory that Oswald fired a single, magical bullet  
 was unbelievable; his motive for killing Kennedy was unclear; many doubts remain."

This is an entire disproof of Posner's entire book, that whole phony concoction  
 he fabricated beginning with ~~Hatog~~ <sup>what</sup> he exaggerated and distorted Hartog's  
 opinion of the boy to forecast and winding up with his misrepresentation of both the  
 purpose and meaning of ~~the part of~~ <sup>the one side</sup> the Failure Analysis presentation he ~~did not suppress.~~ <sup>used and misused.</sup>  
 The jury itself refused to accept what Posner himself represents as beyond any question at  
 all, as absolutely unquestionable.

The very conservative Washington Times of the same day concluded its story, "The  
 trial's purpose wasn't to reach a definitive ~~conclusion~~ verdict, but to demonstrate  
 advances in the age-old art of lawyering."

Elizabeth Risberg's story of that day for the Associated Press, which blankets  
 the country and the world, begins, "Even hi-tech computer animation could not help  
 jurors at a mock trial decide whether Lee Harvey Oswald assassinated John F. Kennedy."

She among the many others who reported that presentation and the jury'd ~~xxx~~  
 "not ~~A~~ guilty" verdict in hanging, <sup>its on the note,</sup> ~~report~~ that the "defense" was by Wall Street  
<sup>firm</sup> lawyer Posner's old firm, and by those at the top of it, <sup>the</sup> ~~its~~ very best lawyers, <sup>and senior</sup>  
<sup>partners at</sup> Carath Cravath, Swaine and Moore!

One of them David V. <sup>Said</sup> Boies (right) ~~that that~~ after that entire presentation  
 Posner used and misused <sup>the</sup> the prosecution "hand't met its burden of proof."

Boies was not alone of the very best lawyers in the firm that kept Posner working  
 for it so short a period ~~as~~ of time and from his own account, where he boasted of his  
 mind being perfect for analysis, in the most menial chore chore of going over  
 discovery evidence, a chore assigned by some of the major corporations to those who do

not even have a law degree, as I know from having friends who had no law training doing that for years. <sup>A Oswald senior partner</sup> Thomas Barr, quoted in the ~~San Francisco~~ <sup>San Francisco</sup> ~~Chronicle~~ <sup>Chronicle</sup>'s August 11 story, said, "There should not be the slightest doubt of any kind as to what the facts are. And yet every single fact of any significance is open to serious ~~date~~ <sup>date</sup> doubt."

<sup>Not in Posner's version,</sup> Still another of the top partners in the firm that did not need <sup>for Posner's</sup> to continue Posner's <sup>on his fabled 'analytical mind'</sup> services, (Evan Chesler, joined his associates at the firm and in the ABA's presentation of the defense at the mock trial in saying that "no one can be sure about how many shots were fired or where they came from." "Despite all the evidence, the government only has ~~circumstantial~~ <sup>circumstantial</sup> circumstantial evidence to string together . . . The doubts are such that in this ~~case~~ case (the government) cannot carry its burden," said Barr'."

This is the ~~most exact~~ <sup>exact</sup> opposite of Posner's representation of that ~~Failure~~ <sup>Failure</sup> Analysis work he used as his and ~~the~~ <sup>that</sup> opinion could not have come from better, more respected, more establishmentarian lawyers than those at the top of the firm <sup>Posner</sup> he has such a short association with <sup>when</sup> that he inflated <sup>historical role</sup> into his being a cover-worthy and publicity-angle "Wall Street lawyer."

Let us now return to <sup>Patricia</sup> Patricia Holt's "Between the Lines" column ~~of~~ in the September 5, 1993 Chronicle:

When Court TV asked Failure Analysis's chief executive officer, <sup>who</sup> who was part of the "defense" team and testified at the "trial" this question, "Few sharpshooters, much less Oswald, could hit a moving target as rapidly as Oswald ~~was~~ <sup>supposedly</sup> supposedly did- can it be done, <sup>McCarthy</sup> McCarthy replied "I can't. I'm the best shot I know, I can't do that."

We have seen that Posner preferred <sup>the</sup> with opinion of that good ol' boy ~~expert~~ <sup>Zahn</sup> sergeant (to the official opinion of the Marine Corp Commandant, that Oswald was a <sup>this</sup> "rather poor shot") and that to palm this off he suppressed the published official report from his book. This Posner could also quote Zahn's opinion that the shooting attributed to Oswald was <sup>easy</sup> easy. As we also saw, Posner suppressed the fact that the best shots the ~~MIA~~ <sup>MIA</sup> could provide, all ~~rather~~ holding the very highest rating, of "master," could not duplicate the shooting attributed to Oswald- and that under <sup>greatly</sup> greatly improved conditions. One of those <sup>one</sup> several improvements was <sup>stationary, not at a</sup> not shooting at a moving target, <sup>as both</sup> as both Court TV's

host Brian Banmiller and McCarthy spoke the obvious, <sup>a moving target</sup> that makes shooting with such a accuracy <sup>much</sup> more difficult. And when McCarthy, whose professional qualifications greatly exceed Posner for a professional opinion and whose ~~shot~~ shooting skill greatly exceeded Oswald's say <sup>this</sup> he could not do it, there is still another reason Posner had to suppress the fact that there was a defense and a jury ~~reid~~ verdict.

From merely the half-hour video cassette Meyer gave me there are many other reasons Posner ~~did~~ did not dare use all of that production. Of these I here cite only a few:

It made no sense to use such piece of junk as an assassination weapon;

JFK was shot while hidden from ~~K~~ <sup>Camera</sup> ~~Zapruder's~~ <sup>his</sup> ~~camera~~ by the sign before Posner theorized he was and <sup>his</sup> the reaction to it is not that fancy of the urologist, John Lattimer but is in reaction to that shot (Lattimer's first attempt to use "science" to prove his preconception that Oswald <sup>was</sup> the lone assassin was to slice ~~the~~ sample bullets cross-wise in his laboratory, with precision equipment <sup>the</sup> with conclusion he has not repeated since then to my knowledge);

The prosecution acknowledge that there ~~was~~ <sup>three</sup> were only ~~three~~ shots is mere conjecture;

The ~~extra~~ time added for the shooting by additional theorizing, that ~~a~~ eight-second scenario, is not Posner's, it is the prosecution's and he pilched that up from the Failure Analysis presentation to the bar association convention;

The computer's projected path of that <sup>m</sup> ~~magic~~ bullet through both JFK and Governor Connally in fact shows its ~~path~~ deflected to the President's <sup>right</sup> ~~ring~~ on leaving his neck;

And where it allegedly went through his neck it was low enough to have <sup>that</sup> ~~and~~ to go through the shirt and tie neither of which was struck in the front by any bullet, from the official ~~evi~~ evidence itself.

Why McCarthy did not respond to my <sup>2</sup> letters I do not know. Meyer indicates that all correspondence ~~was~~ was routed to her, that <sup>her</sup> response was her official responsibility. In any organization this is comprehensible, not really unusual. I wrote McCarthy because I wanted to be able to quote what he and Failure Analysis said with complete accuracy. <sup>C</sup> neither ~~the~~ the organization nor McCarthy had a policy of not responding for quotation. He was quoted by the media and he did agree to be quoted when my friend

David Beck, <sup>questioned</sup> asked him ~~to~~ for direct quotation in a ~~book~~ review of Posner's book. Dave has been studying the subject for some years. He teaches history at the Dublin, Ohio High School. He lives in Westerville, not far from that school. With permission to quote what he will say and with what he quotes directly within within quotations marks he sent me a memorandum covering his interviews with McCarthy and several others. His conversation with McCarthy was on Monday September 13. He also spoke about Posner's ~~on September 18.~~ <sup>Cyril</sup> book to Cyril ~~Wecht, who~~, As we have seen, is both a lawyer and a forensic pathologist <sup>and</sup> and is the former head of the American Academy of Forensic <sup>Science</sup> medicine. He was also involved in the ABA mock trial as an expert.

Dave's ~~memorad~~ memorandum quotes Wecht on his conversation with McCarthy in which McCarthy "confirmed that Posner never consulted with or met with them. They ~~sent~~ sent him a courtesy summary of the mock trial <sup>in</sup>formation." More, "Posner never commissioned them or paid them a penny." <sup>W</sup>Wecht said that McCarthy "was very angry with Posner that clear inference (was made) on interviews that he commissioned them to do it." He further quotes McCarthy as saying, "This was done as a project, (with) no unanimity of opinion amongst them... Posner is a writer and a lawyer - what he's done can't be attributed to sloppiness."

Dave's memo continues with his own words in which he also quotes McCarthy: "Regarding the allegations that Posner implied that he commissioned Failure Analysis: Posner has ~~explicitly~~ consciously attempted to create that image! <sup>and</sup> Then, "We are terribly amused at this concept of 'case closed.'"

For the prosecution, McCarthy, of the defense team, told Dave, "There ~~were~~ are bigger problems than the wounds."

As we have seen, those that Posner did not deal with <sup>y</sup>unfaithfully in various ways and degrees, he just ignored to help him ~~declare~~ declare ~~that~~ as he did, ~~and Case~~ "Case Closed."

One problem with that rifle, as I knew from my duplicate of it on the local range, as McCarthy said, "It is a 'high energy rifle' with a 'pretty fair kick'." Those who fired mine on the range found the kick, the ~~recoil~~ recoil that thrusts the butt

of the rifle strongly into the should and "licks" the muzzle <sup>quite</sup> ~~send~~ <sup>more of</sup> strongly upward, to be ~~fairly~~ strong. Especially in using a telescopic sight this <sup>more of</sup> ~~make~~ a problem of getting the target back into the lenses of the scope to sight and then fire. <sup>not</sup> It takes more time, the amount more ~~on~~ varying with the experience of the shooter, and it should be recalled Oswald is never known to have fired that rifle a single time so he could <sup>not</sup> know about and adjust for that <sup>strong</sup> ~~spring~~ kick.

McCarthy also told Keck as Holt quoted him, good a shot as he is, "I couldn't duplicate ~~the~~ it," referring to the shooting attributed to Oswald. And McCarthy is an experienced, practising rifleman.

Dave also noted some of Posner's glaring errors that I skipped. One <sup>that</sup> ~~that~~ amused me for that pretended know-it-all Posner is that with regard to a man said to have "confessed" to being one of those utterly irrelevant "tramps" <sup>these</sup> ~~in this~~ pictures, Posner refers to him as Charles 'Buddy' Harrelson. The name, Dave says, is "Charles Voyd Harrelson." He says that "Buddy" Harrelson was an infielder for the New York Mets."

Wecht made a trenchant observation, ~~referring~~ <sup>referring</sup> to that really zany concoction of Posner's, that the bullet ~~that~~ <sup>that</sup> misseed and ~~he~~ <sup>he</sup> says was the very first shot fired, in order to ~~make~~ ~~have~~ <sup>have</sup> the have the jacket and core separate so that in Posner's ignorant interpretation of what he says the FBI Lab's report on the ~~impact~~ <sup>impact</sup> on that curbstone means, hit a twig or ~~abscissa~~ <sup>abscissa</sup> branch of a tree. That, in ~~Posner's~~ <sup>Posner's</sup> Posner's imagination, required for his scenario to have any possibility at all, is ~~as~~ <sup>as</sup> required so that the traces the FBI ~~got~~ <sup>got</sup> from that curbstone could be attributed to the core of that bullet.

As we have seen, the FBI ~~as~~ <sup>as</sup> tested a ~~concrete~~ <sup>concrete</sup> ~~concrete~~ paste patch over the ~~hip~~ <sup>hip</sup> chip made by that impact. But ~~as~~ <sup>as</sup> Wecht ~~observed~~ <sup>observed</sup>, that bullet "breaks Connally's" rib and radi

radius (the heavy wrist bone) and doesn't separate <sup>it</sup> ~~hit~~ twigs and separates."

Obviously, <sup>for</sup> Posner's fabrication to make ~~th~~ <sup>possible</sup> his theory, and it is only a theory, ~~what he criticizes other for~~, he had to make this improbability have the semblance of possibility and ~~he~~ <sup>he</sup> writes about it for all the world as though it is real. A little twig cause the ~~the~~ <sup>the</sup> jacket to separate itself from the lead core ~~by~~ <sup>by</sup> smashing Connally's rib and wrist bone did not <sup>it</sup> ~~it~~! Ridiculous indeed!

Cyril

History teacher Dave Keck the baseball fan and Wecht, of the most impeccable professional credentials as a forensic pathology, <sup>at opposite extreme's, underscored</sup> each in his own way, the arrogance of mind, the ~~self~~ self-concept that makes to Posner real ~~out~~ of the unreal, so he puts it on paper. <sup>Then</sup> ~~and~~ his ~~editor~~ Random House editor Bob Loomis, who is also its executive editor and vice president, had no editing questions and requires no authentic peer <sup>✓</sup> review, and ~~with this~~ <sup>Heck</sup> make an international sensation of the book.

The ~~Lack~~ <sup>Heck</sup> and Wecht observations are of a different kind of dishonesty that <sup>✓</sup> Posner employed to make his book what it is, what he could not ~~possibly~~ <sup>possibly</sup> have done without all his more serious, <sup>l</sup> unqualified, I think unprecedented dishonesties of <sup>which none</sup> ~~which none~~ is more essential to his book than his knowing false pretense that the Failure Analysis work was done for him and that he faithfully reported that work in his book.

With the most ~~the~~ <sup>normal</sup> thoroughgoing contempt for all concepts of decency, honesty, fairness and even of <sup>a</sup> standards of personal behavior, and with ~~the most~~ total disregard for our history and popular understanding of it as he ~~knows~~ <sup>he</sup> does so falsely w rewrites it, he did more, ever so much more than any one person <sup>his</sup> ~~to~~ have the grossest and most consciously dishonest and false account of it, <sup>was</sup> accepted internationally and by own own <sup>They</sup> negligent and uncaring media <sup>a/</sup> that made him a famous hero and fine public servant for it.

~~Continues later Posner gave his own answer to what kind of hero Antony's questions about what kind of meat Caesar eats~~

Quite aside from ~~Posner's~~ <sup>proper</sup> ~~raping~~ <sup>1976</sup> of all the fine traditions of the honorable craft of writers in a society <sup>like</sup> ~~ours~~, a society whose function depends on the people being honestly informed, he ~~has~~ <sup>gave</sup> once again ~~given~~ the major media an opportunity to refuse to meet its obligations as, as it has from the moment those terrible shots were fired in ~~Dealey~~ <sup>✓</sup> Plaza, ~~it has~~ failed itself and all of us again.